

U.S. DISTRICT COURT: DISTRICT OF MASSACHUSETTS:

FELIPE OTEZE FOWLKES,

PLAINTIFF

VS.

C.A.#05-11749-JLT

KATHLEEN M. DENNEHY, ET AL.,

DEFENDANTS.

PLAINTIFF'S OPPOSITION TO MR. (SCOTT)

ANDERSON'S MOTION TO DISMISS:

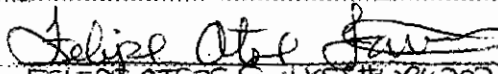
NOW COMES, PLAINTIFF, FELIPE OTEZE FOWLKES, PRO SE, AND OPPOSES THE DEFENDANTS MOTION TO DISMISS CLAIMS AGAINST DEFENDANT "MR. (SCOTT) ANDERSON" FOR FAILURE TO SERVE SUMMONS AND COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(5).

THE REASONS FOR THIS OPPOSITION ARE THAT: PLAINTIFF FILED "PROOF OF SERVICE" w/COURT DATED SEPT. 25, 2006, AND OCT. 30, 2006, ON ALL DEFENDANTS INCLUDING DEFENDANT ANDERSON VIA

U.S. MARSHAL SERVICE. PLAINTIFF'S PROOFS OF SERVICES VIA U.S. MARSHAL SERVICE, SHOWS THAT HE FURNISHED THE U.S. MARSHAL WITH THE NECESSARY FORMS INCLUDING AMENDED OPERATIVE COMPLAINT, TO BE SERVED ON DEFENDANT ANDERSON TOGETHER WITH THE OTHERS. (TO WIT, REFER TO JULY 31, 2006, CERTIFICATE OF SERVICE/AFFIDAVIT OF SERVICE BY MAIL ANNEXED TO THE OCTOBER 30, 2006, PROOF OF SERVICE.) THUS, DEFENDANT'S CLAIMS REGARDING ANDERSON'S COMPLAINT SHOULD BE ADDRESSED TO MARSHAL'S SERVICE AND NOT BY WAY OF MOTION TO DISMISS. PLAINTIFF CANNOT BE HELD IN DEFAULT BY FAILURE, ERROR OR MISTAKE OF MARSHAL'S SERVICE TO EFFECTUATE SERVICE.

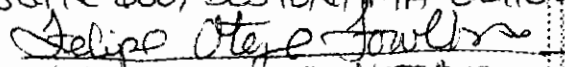
WHEREFORE, IT IS RESPECTFULLY REQUESTED THAT DEFENDANT'S MOTION TO DISMISS CLAIMS AGAINST "MR. (SCOTT) ANDERSON" BE DENIED AND THAT COURT ENTER ORDER DIRECTING U.S. MARSHAL TO SERVE OR RE-SERVE SUMMONS AND AMENDED COMPLAINT ON DEFENDANT ANDERSON.

DATED: JAN. 4, 2007


 FELIPE OTEZE FOWLKES #1384302
 SBCC. P.O. Box 8000: SHIRLEY, MA 01464

CERTIFICATE OF SERVICE

I, FELIPE OTEZE FOWLKES, HEREBY CERTIFY THAT I HAVE CAUSED A TRUE COPY OF THE FOREGOING "OPPOSITION" TO BE SERVED ON DARYL F. GLAZER, BY PRE-PAID POSTAGED FIRST CLASS MAIL AT D.O.C. LEGAL DIVISION, 70 FRANKLIN STREET, SUITE 600, BOSTON, MA 02110.
 DATED: JAN. 4, 2007.


 FELIPE OTEZE FOWLKES #1384302